In the High Court of Uttaranchal, at Nainital.

Criminal Misc. Application No. 669/2006

Triloki Dass S/o Brahma Das,
R/o Village Bhudpur, East Hope Town
Pargana Pachhwadoon,
Tehsil Vikasnagar, Dehradun ... Applicant

Versus

1- State of Uttaranchal

2- Basant Ram S/o Late Hari Singh

3- Sanjeev Kumar S/o Brahma Das

4-Thakur Das S/o Late Late Hari Singh

All R/o Village Bhudpur, East Hope Town, Pargana Pachhwadoon, Tehsil Vikasnagar, Dehradun .. Respondents.

Sri Lokendra Dobhal, Advocate for the applicant.
Learned A.G.A. for the respondents.

Hon'ble B.C. Kandpal, J.

This petition U/S. 482 Cr.P.C. has been filed by the applicant challenging the order dated 14-7-2006 passed by the Sessions Judge, Dehradun in criminal revision No. 80/2006 Triloki Dass versus Basant Ram and others.

2- Brief facts giving rise to this petition are that proceedings U/S 145 Cr.P.C. were initiated and the Sub Divisional Magistrate passed an order on 8-5-2006 observing therein that it was clear from the police report that the land in question is in joint possession of the parties. The learned Magistrate accordingly terminated the proceedings U/S 145 Cr.P.C. by the aforesaid impugned order.

3- A revision was filed by the applicant Triloki Dass against the aforesaid impugned order passed by the S.D.M.. The learned Sessions Judge dismissed the

revision on the ground that none was present on behalf of the revisionist and the impugned order appears to be legal. The learned Sessions Judge accordingly dismissed the revision in limine.

4- Heard learned counsel for the applicant, learned A.G.A. and perusal the record.

5- The order passed by the learned Sessions Judge in the revision appears to be an order as if it has been passed that the revision was dismissed in default of the revisionist. The application of the mind of the court concerned should be visible in the order. Although the learned Sessions Judge has recorded in the impugned order that the order in question passed by the Sub Divisional Magistrate is legal but in order to substantiate his finding no reasoning has been recorded by the learned Sessions Judge. The Sessions Judge has power to dismiss the the revision in limine, but the court concerned should have recorded a categorical finding for dismissing the same.

6- In view of the aforesaid situation, I direct that the Sessions Judge concerned shall fix a date to the parties in the case and after giving opportunity of being heard, shall decide the revision in accordance with law without any unreasonable delay. He shall also record the reasonings while deciding the revision.

7- With the aforesaid observation the petition is finally disposed of.

(B.C. Kandpal, J.)

Dated: 18-8-2006

ISB